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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,925	01/02/2001	Dauna R. Williams	056205-5001US	1241
9629 7590 07/02/2009 MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004				
EXAMINER ALVAREZ, RAQUEL				
ART UNIT 3688		PAPER NUMBER		
MAIL DATE 07/02/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/752,925

**Applicant(s)**

WILLIAMS, DAUNA R.

**Examiner**

Raquel Alvarez

**Art Unit**

3688

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-20 and 22-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-20 and 22-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C2)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This office action is in response to communication filed on 3/17/2009.
2. Claims 18-20, 22-48 are presented for examination.

**Claim Rejections - 35 USC § 112**

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 46-48 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There's no disclosure in the specification of using geographic area of the responders in order to make story line recommendations and customized the broadcast accordingly.

**Claim Rejections - 35 USC § 103**

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 18-20, 22-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trewitt et al. (6,134,531 hereinafter Trewitt) in view of Abelow (2004/0177002 hereinafter Abelow).

With respect to claims 18, 19-20, 22, 24, 27 Trewitt teaches a computer processor selectively programmed to provide an electronic query to a member of an audience a current episode for a show, wherein said show comprises a series of episodes having a common theme and characters with subsequent episodes advancing a story line of said show, wherein said show comprises a series of episodes having common theme and characters said feedback messages to use to modify the story line and/or characters for future episodes of said show (i.e. the system receives feedback from viewers of a broadcast program, the program having different segments and using the user's reactions over time for program variations)(line 1, lines 64 to col. 2, lines 1-5);

A computer processor selectively programmed for receiving and storing in memory said feedback messages (i.e. the gathering the feedback and storing it in order to use it over time in different segment of the program)(col. 2, lines 2-5 and col. 5, lines 39-44);

A computer processor selectively programmed for aggregating a plurality of collected feedback messages into data and electronically analyzing said data to provide a report that is utilized in development of the story line and/or characters in one or more subsequent future episodes for said show and wherein said processors may be one processor or a plurality of interconnected processors (i.e. taken client's feedback

/responses/reactions overtime in order to develop variations of the program/show)(col. 2, lines 2-5).

With respect to the query being structured in a multi-tiered hierarchy and incorporating the response into the show production. Abelow teaches on paragraphs 0666 and 0681 multiple follow-up questions during product development uses. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included in the system of Trewitt the teachings of Abelow of structuring the query in a multi-tiered hierarchy in order to receive follow up answers and really get to know how a customer feels about a specific subject and use this information for development of a product/service/show.

With respect to claim 23, Trewitt further teaches the receiving being performed via the Internet (Figure 1, 160).

With respect to claim 25, Trewitt further teaches the data being transmitted to a broadcast center server 110.

Claim 26 further recite that the feedback message is to be incorporated into the script of a show scheduled for broadcast within seven days. Trewitt teaches that the feedback messages are incorporated into the broadcast show. Trewitt is silent as to how long it takes for the user's feedback to be incorporated into the show. Incorporated the user's input within seven days will allow proper and ample of time for the show to be

edit with the new content. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included incorporating the user's input within 7 days in order to obtain the above mentioned advantage.

Claims 28-33 further recite that the query further comprises a prequel-mercial to gather feedback for initial episodes, to educate the audience about the show, promote the show, to provide portions of the storyline that are supportive of the show. Trewitt doesn't specifically teach that the questions/query comprises a prequel-mercial to gather feedback for initial episodes, to educate the audience about the show, promote the show, to provide portions of the storyline that are supportive of the show. Official notice is taken that it is old and well known in TV shows to place commercials promoting responses to shows, educating the audience of the upcoming shows in order to promote the upcoming events. For example, previews of upcoming shows promote audience participation and viewership of the show, as well as educate and promote the show and shows the viewers mini-portions of the upcoming shows, the viewers feedback is measure by the viewership of the show. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included query of prequel-mercial to garner feedback for initial episodes, to educate the audience about the show, promote the show, to provide portions of the storyline that are supportive of the show in order to obtain the above mentioned advantage.

Claim 34 further recites that the prequel-mercial comprises product placement advertisement within said storyline. Official notice is taken that it is old and well known in marketing to provide advertisements/information/products related to the information that the user is viewing. For example, certain websites will provide advertisements or the like based on the content of the web page that the user is viewing. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included prequel-mercial comprises product placement advertisement within said storyline in order to better target the product placements.

Claims 35-41 and 42 further recites the feedback messages being filtered based on whether said message is corresponding is responding to an editor-driven , a director, a writer driven or an Online request. Trewitt is silent to filtering the message based on where the message came from. Official notice is taken that it is old and well known to filter information based on the source that the information came from in order to organize and better analyze the information obtained. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included to filtering the message based on where the message came from in order to obtain the above mentioned advantage.

Claims 43-45 further recite one or more characters web portal that enables user to purchase an item worn by said character in said show. Trewitt is silent as to characters as web portals which enable the users to order items order by said

characters. Official Notice is taken that it is old and well known to make item/products/services as web portals in order to allow ordering/hyperlinking to products, services and characters. Using the same concept on actors/characters on a show will allow for easy accessing information and buying products related to the characters.

7. Claims 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trewitt in view of Freeman (2004/0261127 hereinafter Freeman).

With respect to claims 46-48, Trewitt teaches a computer that transmit Internet queries to an audience of a broadcast show, wherein said broadcast show is one of a series of shows, with at least one subsequent show of a series of shows not yet broadcast (i.e. the system receives feedback from viewers of a broadcast program, the program having different segments and using the user's reactions over time for program variations)(line 1, lines 64 to col. 2, lines 1-5); a computer that receives and stores responses to said Internet queries (i.e. the gathering the feedback and storing it in order to use it over time in different segment of the program)(col. 2, lines 2-5 and col. 5, lines 39-44).

With respect to a computer that tracks each of said responses based on one more characteristics of corresponding responders and making storyline recommendations based on said responses, said recommendations based on one or more geographic areas of said responders and customizing said broadcast into group sharing said characteristics. Freeman teaches on paragraph 0132, the viewers profile containing characteristics of the viewers, such as subscriber's location, interests, etc.

and based on the responses and the profile creating a broadcast compendium of viewers interest and preferences. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included customizing the broadcast based on the group user's geographic/profile characteristics in order to broadcast a customized and tailored program based on the group's selection.

### **Response to Arguments**

8. Applicant's arguments filed 3/17/2009 have been fully considered but they are not persuasive.
9. Applicant argues that Trewitt doesn't teach providing an electronic query to a member of an audience for a current episode for a show that comprises a series of episodes having a common theme and characters with subsequent episodes advancing a story line of a show and analyzing the data to be utilized in development of the storyline or more episodes for said show. After careful review of Trewitt, the Examiner concludes that Trewitt teaches using customer's reactions to specific segments of the TV program (i.e. series of episodes having subsequent episodes) in order to develop variations of the TV program overtime based on viewer's reactions (i.e. future shows). As seen by col. 2, lines 2-5 of Trewitt, the **viewers reactions to specific segments of the program** is used **over time** and taken into consideration for program variations and specific segments (episode). In addition Trewitt on col. 1, lines 25-28 teaches using

responses to modify segments of the program, such as the outcome of the program/show, etc. the outcome being later/future in time than the viewers responses.

10. With respect to the Official Notice taken pertaining to the general notion that asking multi-tiered questions on an event that is being developed is well known, the Examiner is citing a reference to support the well known statement.

**Conclusion**

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Point of contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James w. Myhre can be reached on (571)272-6722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raquel Alvarez/  
Primary Examiner, Art Unit 3688

Raquel Alvarez  
Primary Examiner  
Art Unit 3688

R.A.  
6/28/2009

